Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

APPENDIX

IN THE

Supreme Court of the United States

October Term, 1979.

No. 79-343.

SUN SHIP, INC.,

Appellant,

v.

COMMONWEALTH OF PENNSYLVANIA, WORKMEN'S COMPENSATION APPEAL BOARD, JOHN APRIL, CURTIS L. FIELDS, FRANK JANUZCIEWICZ, JOSEPH C. KIMMEL and WILLIE MOORE,

Appellees.

On Appeal From the Commonwealth Court of Pennsylvania.

FILED AUGUST 31, 1979

PROBABLE JURISDICTION NOTED JANUARY 7, 1980

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CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES.

JOHN APRIL

Dec. 5, 1975—Claim Petition pursuant to Pennsylvania Workmen's Compensation Act filed (No. 195-05-9634).

Jan. 9, 1976—Answer filed by Defendant Sun Ship.

Feb. 25, 1976—Hearing before Referee Fred J. Troilo.

Apr. 25, 1977—Decision of Referee awarding benefits filed.

May 24, 1977—Appeal to Workmen's Compensation Appeal Board from Referee's decision filed by Sun Ship (No. A-73217).

July 20, 1977—Hearing before Workmen's Compensation Appeal Board.

Nov. 25, 1977—Opinion of Workmen's Compensation Appeal Board affirming award of Referee filed.

Jan. 9, 1978—Petition to review order of Workmen's Compensation Appeal Board filed by Sun Ship with Pennsylvania Commonwealth Court (No. 35 Commonwealth Docket 1978).

Feb. 8, 1979—Argument before three-member panel of Pennsylvania Commonwealth Court.

Mar. 16, 1979—Opinion and order of Pennsylvania Commonwealth Court affirming order of Workmen's Compensation Appeal Board filed.

Apr. 11, 1979—Petition for allowance of appeal from order of Pennsylvania Commonwealth Court filed by Sun Ship with Pennsylvania Supreme Court (Allocatur Docket No. 4264).

June 4, 1979—Petition for allowance of appeal denied by Pennsylvania Supreme Court.

July 19, 1979—Notice of appeal to United States Supreme Court filed by Sun Ship with Pennsylvania Commonwealth Court.

CURTIS L. FIELDS

Jan. 19, 1976—Claim Petition pursuant to Pennsylvania Workmen's Compensation Act filed (No. 190-34-3285).

Feb. 11, 1976—Answer filed by Defendant Sun Ship.

June 17, 1976—Hearing before Referee Jerold G. Klevit.

Apr. 26, 1977—Decision of Referee dismissing claim for lack of jurisdiction filed.

May 23, 1977—Appeal to Workmen's Compensation Appeal Board from Referee's decision filed by Claimant Fields (No. A-73210).

July 20, 1977—Notes of testimony of hearing before Referee filed.

July 20, 1977—Hearing before Workmen's Compensation Appeal Board.

Nov. 25, 1977—Opinion of Workmen's Compensation Appeal Board reversing decision of Referee and awarding benefits filed.

Jan. 9, 1978—Petition to review order of Workmen's Compensation Appeal Board filed by Sun Ship with Pennsylvania Commonwealth Court (No. 32 Commonwealth Docket 1978).

Feb. 8, 1979—Argument before three-member panel of Pennsylvania Commonwealth Court.

Mar. 16, 1979—Opinion and order of Pennsylvania Commonwealth Court affirming order of Workmen's Compensation Appeal Board filed.

Apr. 11, 1979—Petition for allowance of appeal from order of Pennsylvania Commonwealth Court filed by Sun Ship with Pennsylvania Supreme Court (Allocatur Docket No. 4263).

June 4, 1979—Petition for allowance of appeal denied by Pennsylvania Supreme Court.

July 19, 1979—Notice of appeal to United States Supreme Court filed by Sun Ship with Pennsylvania Commonwealth Court.

FRANK JANUZCIEWICZ

Feb. 9, 1976—Claim Petition pursuant to Pennsylvania Workmen's Compensation Act filed (No. 195-12-9304).

Mar. 15, 1976—Answer filed by Defendant Sun Ship.

May 12, 1976—Hearing before Referee Fred J. Troilo.

Apr. 25, 1977—Decision of Referee awarding benefits filed.

May 24, 1977—Appeal to Workmen's Compensation Appeal Board from Referee's decision filed by Sun Ship (No. A-73219).

July 20, 1977—Hearing before Workmen's Compensation Appeal Board.

Nov. 25, 1977—Opinion of Workmen's Compensation Appeal Board affirming award of Referee filed.

Jan. 9, 1978—Petition to review order of Workmen's Compensation Appeal Board filed by Sun Ship with Penn-

sylvania Commonwealth Court (No. 31 Commonwealth Docket 1978).

Feb. 8, 1979—Argument before three-member panel of Pennsylvania Commonwealth Court.

Mar. 16, 1979—Opinion and order of Pennsylvania Commonwealth Court affirming order of Workmen's Compensation Appeal Board filed.

Apr. 11, 1979—Petition for allowance of appeal from order of Pennsylvania Commonwealth Court filed by Sun Ship with Pennsylvania Supreme Court (Allocatur Docket No. 4259).

June 4, 1979—Petition for allowance of appeal denied by Pennsylvania Supreme Court.

July 19, 1979—Notice of appeal to United States Supreme Court filed by Sun Ship with Pennsylvania Commonwealth Court.

JOSEPH C. KIMMEL

Aug. 28, 1975—Claim Petition pursuant to Pennsylvania Workmen's Compensation Act filed (No. 195-36-0437).

Sept. 19, 1975—Answer filed by Defendant Sun Ship.

Jan. 5, 1976—Hearing before Referee Fred J. Troilo.

Apr. 25, 1977—Decision of Referee awarding benefits filed.

May 24, 1977—Appeal to Workmen's Compensation Appeal Board from Referee's decision filed by Sun Ship (No. A-73220).

July 20, 1977—Hearing before Workmen's Compensation Appeal Board.

Nov. 25, 1977—Opinion of Workmen's Compensation Appeal Board affirming award of Referee filed.

Jan. 9, 1978—Petition to review order of Workmen's Compensation Appeal Board filed by Sun Ship with Pennsylvania Commonwealth Court (No. 33 Commonwealth Docket 1978).

Feb. 8, 1979—Argument before three-member panel of Pennsylvania Commonwealth Court.

Mar. 16, 1979—Opinion and order of Pennsylvania Commonwealth Court affirming order of Workmen's Compensation Appeal Board filed.

Apr. 11, 1979—Petition for allowance of appeal from order of Pennsylvania Commonwealth Court filed by Sun Ship with Pennsylvania Supreme Court (Allocatur Docket No. 4265).

June 4, 1979—Petition for allowance of appeal denied by Pennsylvania Supreme Court.

July 19, 1979—Notice of appeal to United States Supreme Court filed by Sun Ship with Pennsylvania Commonwealth Court.

WILLIE MOORE

Nov. 21, 1975—Claim Petition pursuant to Pennsylvania Workmen's Compensation Act filed (No. 171-26-2668).

Dec. 12, 1975—Answer filed by Defendant Sun Ship.

Jan. 8, 1976—Hearing before Referee Fred J. Troilo.

Apr. 20, 1977—Decision of Referee awarding benefits filed.

May 24, 1977—Appeal to Workmen's Compensation Appeal Board from Referee's decision filed by Sun Ship (No. A-73218).

July 20, 1977—Hearing before Workmen's Compensation Appeal Board.

Nov. 25, 1977—Opinion of Workmen's Compensation Appeal Board affirming award of Referee filed.

Jan. 9, 1978—Petition to review order of Workmen's Compensation Appeal Board filed by Sun Ship with Pennsylvania Commonwealth Court (No. 34 Commonwealth Docket 1978).

Feb. 8, 1979—Argument before three-member panel of Pennsylvania Commonwealth Court.

Mar. 16, 1979—Opinion and order of Pennsylvania Commonwealth Court affirming order of Workmen's Compensation Appeal Board filed.

Apr. 11, 1979—Petition for allowance of appeal from order of Pennsylvania Commonwealth Court filed by Sun Ship with Pennsylvania Supreme Court (Allocatur Docket No. 4266).

June 4, 1979—Petition for allowance of appeal denied by Pennsylvania Supreme Court.

July 19, 1979—Notice of appeal to United States Supreme Court filed by Sun Ship with Pennsylvania Commonwealth Court.

Commonwealth of Pennsylvania
Department of Labor and Industry
Bureau of Workmen's Compensation
Harrisburg, Pa. 17120

EMPLOYE'S CLAIM PETITION FOR COMPENSATION FOR DISABILITY

November 19, 1975

John April
309 Donley Avenue
Aston, Pa. 19014
Social Security No. 195-05-9634

v.

Sun Shipbuilding & Dry Dock Co.
Chester, Pa.
Self Insured

To the Workmen's Compensation Board,
Commonwealth of Pennsylvania:

The Claimant respectfully alleges that:

1. The business of my employer was *ship builder and ship repairs.*

2. The date of accident was *February 1975.*

3. The accident occurred while *I was at work.*

4. The nature and cause of the injury was *while chipping piece of metal struck me in the nose, causing a serious impairment and disfigurement.*

5. The following doctors and/or hospitals rendered services

6. (a) I Did _____ request my employer to furnish these services.

(b) The employer did _____ furnish such services.

(c) The amount spent by me for such services was _____.

7. I was disabled from _____ to _____.

8. I have _____ returned to work at my previous occupation and at my former wages which were _____.

9. Notice of the injury was served upon my employer on *February, 1975* by *me* in the following manner *oral notice to my supervisor.*

10. The following facts I also believe important: *claim is made for counsel fee, costs, interest and penalties.*

WHEREFORE, The Claimant asks that your Honorable Board shall make an award in accordance with the provisions of the Pennsylvania Workmen's Compensation Act.

/s/ *John April*
305 Donley Avenue
Aston, Pa.

[Entry of Appearance and Notary's Affidavit Omitted in Printing.]

Commonwealth of Pennsylvania
Department of Labor and Industry
Bureau of Occupational Injury and Disease Compensation
Harrisburg, Pa. 17120

DEFENDANT'S ANSWER TO CLAIM PETITION UNDER PENNSYLVANIA WORKMEN'S COMPENSATION ACT

January 5, 1976

JOHN APRIL
309 Donley Avenue
Aston, Pennsylvania 19014
Social Security No. 195-05-9634

v.

SUN SHIPBUILDING & DRY DOCK CO.
Chester, Pennsylvania
Self-insured

TO YOUR HONORABLE REFEREE:

In answer to the captioned claim, the Defendant respectfully pleads as follows:

1. *Admitted.*

2. *The date of the accident is January 8, 1975*

3. *Admitted.*

4. *It is denied that the accident caused the claimant "a serious impairment and disfigurement."*

5.-10. *Admitted.*

As a further matter of defense, the Defendant respectfully states the following:

At the time of the accident, the employer and claimant were within the exclusive jurisdiction of the Federal Longshoremen's and Harbor Workers' Act, and thus the Pennsylvania Bureau of Workmen's Compensation has no jurisdiction of the present claim.

WHEREFORE, the Defendant prays that the claim petition be dismissed or in the alternative disallowed.

/s/ *J. L. Burgess*
Asst. Treasurer

[Entry of Appearance and Notary's Affidavit Omitted in Printing.]

Commonwealth of Pennsylvania
Department of Labor and Industry
Bureau of Workmen's Compensation
Harrisburg, Pa. 17120

EMPLOYE'S CLAIM PETITION FOR COMPENSATION FOR DISABILITY

January 8, 1976

CURTIS L. FIELDS
356 N. Redfield Street
Philadelphia, Pa.
Social Security No. 190-34-3285

v.

SUN SHIPBUILDING & DRY DOCK CO.
Chester, Pa.
Self Insurer

TO THE WORKMEN'S COMPENSATION BOARD,
COMMONWEALTH OF PENNSYLVANIA:

The Claimant respectfully alleges that:

1. The business of my employer was *shipbuilding and ship repair.*

2. The date of accident was 5-2-73.

3. The accident occurred while *I was at work cleaning the bottom of a tank.*

4. The nature and cause of the injury was *bumped my head causing a serious and permanent disfigurement; scar over my left eye.*

5. The following doctors and/or hospitals rendered services: *None.*

6. (a) I Did *Yes* request my employer to furnish these services.

(b) The employer did *Yes* furnish such services.

(c) The amount spent by me for such services was *None.*

7. I was disabled from 5-2-73 to 5-6-73.

8. I have *Yes* returned to work at my previous occupation and at my former wages which were ?.

9. Notice of the injury was served upon my employer on 5-2-73 by *me* in the following manner, *oral notice to my Supervisor.*

10. The following facts I also believe important *claim is made for counsel fee costs interest and penalties.*

WHEREFORE the Claimant asks that your Honorable Board shall make an award in accordance with the provisions of the Pennsylvania Workmen's Compensation Act.

/s/ *Curtis L. Fields*
356 N. Redfield St.,
Phila., Pa.

[Entry of Appearance and Notary's Affidavit Omitted in Printing.]

Commonwealth of Pennsylvania
Department of Labor and Industry
Bureau of Occupational Injury and Disease Compensation
Harrisburg, Pa. 17120

DEFENDANT'S ANSWER TO CLAIM PETITION UNDER PENNSYLVANIA WORKMEN'S COMPENSATION ACT

February 5, 1976

Curtis Fields
356 N. Redfield Street
Philadelphia, Pennsylvania
Social Security No. 190-34-3285

v.

Sun Shipbuilding & Dry Dock Co.
Chester, Pennsylvania
Self Insured

TO YOUR HONORABLE REFEREE:

In answer to the captioned claim, the Defendant respectfully pleads as follows:

1.-3. *Admitted.*

4. *It is denied that the claimant sustained "a serious and permanent disfigurement".*

5.-6. *Admitted.*

7. *Denied. It is denied that the claimant was disabled. In fact, he lost no time from work.*

8.-10. *Admitted.*

As a further matter of defense, the Defendant respectfully states the following:

At the time of the incident in question, the parties were within the exclusive jurisdiction of the Federal Longshoremen's and Harbor Workers' Compensation Act. Accordingly, the Bureau of Occupational Injury and Disease Compensation has no jurisdiction over the instant claim.

WHEREFORE, the Defendant prays that the claim petition be dismissed or in the alternative disallowed.

/s/ *J. L. Burgess*

[Entry of Appearance and Notary's Affidavit Omitted in Printing.]

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR AND INDUSTRY
WORKMEN'S COMPENSATION REFEREES

PETITION SS NO. 190-34-3285

CURTIS L. FIELDS

v.

SUN SHIPBUILDING DRYDOCK COMPANY

Before JEROLD G. KLEVIT, Referee,
First Compensation District,
Philadelphia State Office Building,
Hearing of April 15, 1976.

APPEARANCES:

RONALD J. ARTIGUES, ESQUIRE, 1737 Chestnut Street, Philadelphia, Pa., Attorney for the Claimant.

ANDREW J. FORBES, ESQUIRE, 215 North Olive Street, Media, Pa., Attorney for the Defendant.

REPORTED BY:
Margaret L. Finnell.

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(3) HEARING OF APRIL 15, 1976.

CLAIMANT'S EVIDENCE.

CURTIS L. FIELDS, 356 North Redfield Street, Philadelphia, Pa., Claimant, having been duly sworn according to law, was examined and testified as follows:

MR. ARTIGUES: Before we begin, Mr. Referee, I would like to advise you that this is a claim for dis-

figurement only. The time lost from work was only minimal.

DIRECT EXAMINATION.

BY MR. ARTIGUES:

Q. Mr. Fields, for the record, would you give us your full name and address?

A. Curtis Fields, 356 North Redfield, Philadelphia.

Q. Who do you work for?

A. At the time I am unemployed.

Q. Who did you last work for?

A. Sun Shipbuilding Drydock Company.

Q. Were you working for Sun Ship on May 2, 1973?

A. Yes, I was.

Q. How long had you worked for them at that time?

A. A little over a year.

Q. Did anything happen to you on that date?

(4) A. Yes, sir.

Q. What happened?

A. I fell on a ladder. I was in a hold working and I was climbing the ladder with a light in my hand because it was dimly lighted in there. We had to carry our own lamps. I slipped because it was greasy and I hit my head on the railing.

Q. What part of your head did you hit?

A. Right here.

Q. You are pointing to above your left eye, indicating above the left eye?

A. Yes.

Q. Did you require medical treatment or attention because of this injury?

A. Yes. I went to the dispensary.

Q. What was done for you there?

A. They put some medication on it and some kind of a bandage they put on it to close the cut.

Q. Did you lose time from work?

A. I laid off four days, I think.

Q. What were your earnings at that time?

A. I can't tell you right off.

Q. Were you working a regular forty hour week at that time?

A. Yes.

Q. This injury that you had that you indicated was above (5) your left eye, did that leave any kind of a scar that you can notice?

A. Yes. There is a scar here.

Q. Could you point to it for the Referee?

A. Right here.

THE REFEREE: Would you describe the scar for the record?

MR. ARTIGUES: I am standing five or six feet away and I see a scar that is in the eyebrow itself on the outer portion of the left eyebrow that is approximately three-quarters of an inch long or an inch long. From this distance it looks like it may be as wide as half an inch in width. It runs parallel to the eyebrow and is in the eyebrow itself. It is mostly noticeable because the hair is not growing where the scar is.

THE REFEREE: Mr. Forbes, do you concur with that description?

MR. FORBES: Well, sir, I am standing about four feet away and I can see a scar that appears to be maybe half an inch long which conforms to the contour of the eyebrow. It is not raised in any fashion and it appears to be perhaps a sixteenth of an inch wide from my vantage point from four feet away.

THE REFEREE: All right. I will evaluate it.

(6) I will put that on the record, and also my observation.

MR. ARTIGUES: I have no further questions.

CROSS EXAMINATION.

BY MR. FORBES:

Q. Mr. Fields, our records indicate that you were being paid $3.64½ at the time of the accident. Does that sound right?

A. That's very possible because I wasn't, you know, exactly sure what it was.

Q. You had no outstanding medical bills at the time as a result of the injury?

A. No, I didn't.

Q. You were in the hold of a ship?

A. Yes.

Q. Was the ship in drydock?

A. Yes, it was.

MR. FORBES: I have no other questions.

(WITNESS EXCUSED)

THE REFEREE: Is that your case?

MR. ARTIGUES: Yes, sir.

MR. FORBES: We have in our answer raised the exclusive jurisdiction of the Federal Longshormen's and Harborworkers' Compensation Act. A petition has been filed on behalf of Mr. Fields, and that petition (7) has been held in abeyance at the request of Mr. Artigues' office.

We would like to submit a legal memorandum on the issue of whether the Federal Act is exclusive

in this case and I would expect to have that within the next two weeks or so.

THE REFEREE: All right. Memorandum to follow. Fine.

(CASE CONTINUED)

Commonwealth of Pennsylvania
Department of Labor and Industry
Bureau of Workmen's Compensation
Harrisburg, Pa. 17120

EMPLOYE'S CLAIM PETITION FOR COMPENSATION FOR DISABILITY

February 5, 1976

FRANK JANUZCIEWICZ
1112 Brown Street
Chester, Pa.
Social Security No. 195-12-9304

v.

SUN SHIPBUILDING & DRYDOCK CO.
Chester, Pa.
Self-Insurer

TO THE WORKMEN'S COMPENSATION BOARD,
COMMONWEALTH OF PENNSYLVANIA:

The Claimant respectfully alleges that:

1. The business of my employer was *shipbuilder.*

2. The date of accident was *Jan., 1974 on or about 1/15/74.*

3. The accident occurred while *I was at work.*

4. The nature and cause of the injury was *A metal washer struck me on the forehead causing a serious and permanent disfigurement.*

5. The following doctors and/or hospitals rendered services. _____.

6 (a) I Did _____ request my employer to furnish these services.

(b) The employer did _____ furnish such services.

(c) The amount spent by me for such services was _____.

7. I was disabled from _____ to _____.

8. I have _____ returned to work at my previous occupation and at my former wages which were _____.

9. Notice of the injury was served upon my employer on _____ by *me* in the following manner *oral notice to my Supervisor.*

10. The following facts I also believe important *Claim is made for counsel fee, costs, penalty and interest.*

WHEREFORE the Claimant asks that your Honorable Board shall make an award in accordance with the provisions of the Pennsylvania Workmen's Compensation Act. Enter my appearance for petitioner:

/s/ *Frank Januzciewicz*
1112 Brown Street
Chester, Pa.

[Entry of Appearance and Notary's Affidavit Omitted in Printing.]

Commonwealth of Pennsylvania
Department of Labor and Industry
Bureau of Occupational Injury and Disease Compensation
Harrisburg, Pa. 17120

DEFENDANT'S ANSWER TO CLAIM PETITION UNDER PENNSYLVANIA WORKMEN'S COMPENSATION ACT

Frank Januociewicz
1112 Brown Street
Chester, Pennsylvania
Social Security No. 195-12-9304

v.

Sun Shipbuilding & Dry Dock Co.
Chester, Pennsylvania
Self Insured

To Your Honorable Referee:

In answer to the captioned claim, the Defendant respectfully pleads as follows:

1-3. *Admitted.*

4. Denied. It is denied that the claimant sustained a "serious and permanent disfigurement".

5-10. Admitted.

As a further matter of defense, the Defendant respectfully states the following:

At the time of the accident, the claimant and the employee were within the exclusive jurisdiction of the

Federal Longshoremen's and Harbor Workers Act. Indeed, the claimant has filed a Petition under the said Act seeking recovery for the incident in question. Therefore, it is submitted that the Bureau of Occupational Injury and Disease Compensation has no jurisdiction over the subject claim.

Wherefore, the Defendant prays that the claim petition be dismissed or in the alternative disallowed.

/s/ J. L. Burgess

[Entry of Appearance and Notary's Affidavit Omitted in Printing.]

Commonwealth of Pennsylvania
Department of Labor and Industry
Bureau of Workmen's Compensation
Harrisburg, PA 17120

EMPLOYE'S CLAIM PETITION FOR COMPENSATION FOR DISABILITY

August 13, 1975

JOSEPH C. KIMMEL
Apt. H-1, 230 Pennell Rd.,
Aston, Pa. 19014
Social Security No. 195-36-0437

v.

SUN SHIPBUILDING & DRYDOCK CO.
Ft. of Morton Ave., Chester, Pa.
self-insurer

TO THE WORKMEN'S COMPENSATION BOARD,
COMMONWEALTH OF PENNSYLVANIA:

The Claimant respectfully alleges that:

1. The business of my employer was *shipbuilder.*

2. The date of accident was 6-2-75.

3. The accident occurred while *I was working.*

4. The nature and cause of the injury was *I was poked in the face with a hot rod wire causing a serious and permanent disfigurement.*

5. The following doctors and/or hospitals rendered services *shipyard dispensary.*

6. (a) I Did _____ request my employer to furnish these services.

(b) The employer did _____ furnish such services.

(c) The amount spent by me for such services was _____.

7. I was disabled from _____ to _____.

8. I have _____ returned to work at my previous occupation and at my former wages which were _____.

9. Notice of the injury was served upon my employer on *6-2-75* by *me* in the following manner *oral notice to my supervisor.*

10. The following facts I also believe important _____.

WHEREFORE the Claimant asks that your Honorable Board shall make an award in accordance with the provisions of the Pennsylvania Workmen's Compensation Act.

/s/ Joseph C. Kimmel
230 Pennell Rd., Apt. H-1,
Aston, Pa. 19014

[Entry of Appearance and Notary's Affidavit Omitted in Printing.]

Commonwealth of Pennsylvania
Department of Labor and Industry
Bureau of Occupational Injury and Disease Compensation
Harrisburg, Pa. 17120

DEFENDANT'S ANSWER TO CLAIM PETITION UNDER PENNSYLVANIA WORKMEN'S COMPENSATION ACT

September 15 1975

Joseph C. Kimmel
230 Pennell Road
Aston, Pennsylvania
Social Security No. 195-36-0437

v.

Sun Shipbuilding & Dry Dock Co.
Foot of Morton Avenue
Chester, Pennsylvania
Self-insured

To Your Honorable Referee:

In answer to the captioned claim, the Defendant respectfully pleads as follows:

1-10. *All allegations of the employee's claim petition are admitted with the exception of the legal conclusion that the employee sustained a "serious and permanent disfigurement". Formal proof of this allegation is demanded.*

As a further matter of defense, the Defendant respectfully states the following:

11. At the time of the accident, the Employer's Shipyard and the area where the accident occurred were within the exclusive jurisdiction of the Federal Longshoremen's and Harbor Workers' Compensation Act. Accordingly, it is therefore averred that the Pennsylvania Bureau of Workmen's Compensation has no jurisdiction over the matter.

Wherefore, the Defendant prays that the claim petition be dismissed or in the alternative disallowed.

/s/ *G. C. Liacouras,*
Vice President-Treasurer

[Entry of Appearance and Notary's Affidavit Omitted in Printing.]

Commonwealth of Pennsylvania
Department of Labor and Industry
Bureau of Workmen's Compensation
Harrisburg, Pa. 17120

EMPLOYE'S CLAIM PETITION FOR COMPENSATION FOR DISABILITY

November 5, 1975

Willie Moore
1707 W. 7th Street
Chester, Pa.
Social Security No. 171-26-2668

v.

Sun Shipbuilding & Dry Dock Co.
Chester, Pa.
Self Insured

TO THE WORKMEN'S COMPENSATION BOARD,
COMMONWEALTH OF PENNSYLVANIA:

The Claimant respectfully alleges that:

1. The business of my employer was *builder.*

2. The date of accident was *5-13-73.*

3. The accident occurred while *I was at work.*

4. The nature and cause of the injury was *struck with a mall causing a serious and permanent facial disfigurement.*

5. The following doctors and/or hospitals rendered services *Company dispensary.*

6 (a) I Did _____ request my employer to furnish these services.

(b) The employer did _____ furnish such services.

(c) The amount spent by me for such services was _____.

7. I was disabled from _____ to _____.

8. I have _____ returned to work at my previous occupation and at my former wages which were _____.

9. Notice of the injury was served upon my employer on *5-13-73* by *me* in the following manner *oral notice to my supervisor.*

10. The following facts I also believe important _____ _____.

WHEREFORE the Claimant asks that your Honorable Board shall make an award in accordance with the provisions of the Pennsylvania Workmen's Compensation Act.

/s/ *Willie Moore*
1707 W. 7th Street
Chester, Pa.

[Entry of Appearance and Notary's Affidavit Omitted in Printing.]

Commonwealth of Pennsylvania
Department of Labor and Industry
Bureau of Occupational Injury and Disease Compensation
Harrisburg, Pa. 17120

DEFENDANT'S ANSWER TO CLAIM PETITION UNDER PENNSYLVANIA WORKMEN'S COMPENSATION ACT

December 8, 1975

Willie Moore
1707 West 7th Street
Chester, Pennsylvania
Social Security No. 171-26-2668

v.

Sun Shipbuilding & Dry Dock Co.
Chester, Pennsylvania
Self-insured

To Your Honorable Referee:

In answer to the captioned claim, the Defendant respectfully pleads as follows:

1. *Admitted.*

2-4. *Denied. Employee is without sufficient evidence to confirm or deny the claimant's allegations concerning the happening of the accident or the date thereof. In addition, it is denied that the employee sustained a "serious and permanent disfigurement" as defined by the Act.*

5-9. *Admitted.*

As a further matter of defense, the Defendant respectfully states the following:

On April 29, 1974, a claim was filed on behalf of the employee under the Federal Longshoremen's and Harbor Worker's Compensation Act, as amended, arising from the same alleged accident as is the subject of the present petition.

10. *The area where the accident is alleged to have occurred was at the time, of the alleged accident, within the exclusive jurisdiction of the Federal Longshoremen's and Harbor Worker's Act. It is therefore averred that the Commonwealth of Pennsylvania has no jurisdiction in the present matter.*

Wherefore, the Defendant prays that the claim petition be dismissed or in the alternative disallowed.

/s/ J. C. Burgess

[Entry of Appearance and Notary's Affidavit Omitted in Printing.]